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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,391	11/03/2003	Osamu Otsuka	DP-977 US	2731
21254 7590 12/18/2007 MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			EXAMINER PHAM, TUAN	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 12/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/698,391

Applicant(s)

OTSUKA, OSAMU

Examiner

TUAN A. PHAM

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11-14 and 19-26 is/are rejected.
- 7) ☒ Claim(s) 15-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Applicant's remark, filed on 10/10/2007, with respect to the rejection(s) of claim(s) 1-26 under 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Padovani et al. (Pub. No.: 2003/0063583) in view of Urzaiz et al. (US Pub. No.: 2005/0021838).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 11-14, and 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padovani et al. (Pub. No.: 2003/0063583, hereinafter, "Padovani") in view of Urzaiz et al. (US Pub. No.: 2005/0021838, hereinafter, "Urzaiz").**

Regarding claim 11, a transmission rate controlling method of mobile radio equipment for controlling a rate of radio data transmission between mobile radio equipment and a base station, the method comprising (see figure 2, base station 4, mobile 6):

a decoding step for decoding encoded data (see figure 2, decoder 66, [0078]);

a judging step for judging the transmission rate (see [0078]) ; and

a transmission controlling step for controlling the rate of transmission to/from a base station based on a judgment made at the judging step (see figure 2, [0078], it is clearly seen that the mobile 6 measure and adjust the C/I and send the indication to the base station to increase or decrease the data rate).

It should be noticed that Padovani fails to teach decoding has been performed in time. However, Urzaiz teaches such features (see [0008, 0010, 0100]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Urzaiz into view of Padovani in order to maintain stability the transmission rate for the system as suggested by Urzaiz at [0013].

Regarding claims 12 and 13, a transmission rate controlling method of mobile radio equipment for controlling a rate of radio data transmission between mobile radio equipment and a base station, the method comprising (see figure 2, base station 4, mobile 6):

a decoding step for decoding encoded data according to the encoded data input into a decoder (see figure 2, decoder 66, [0078]);

a judging step for judging the transmission rate (see [0078]) ;

a transmission controlling step for controlling the rate of transmission to/from a base station based on a judgment made at the judging step (see figure 2, [0078], it is clearly seen that the mobile 6 measure and adjust the C/I and send the indication to the base station to increase or decrease the data rate), and

an inputting/outputting step for inputting/outputting the decoded data output from the decoder in a format suitable for the input data (see figure 2, decoder 66 receive input from DEMOD 64 and output to DATA SINK 68).

It should be noticed that Padovani fails to teach decoding has been performed in time. However, Urzaiz teaches such features (see [0008, 0010, 0100]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Urzaiz into view of Padovani in order to maintain stability the transmission rate for the system as suggested by Urzaiz at [0013].

Regarding claim 14, a transmission rate controlling method of mobile radio equipment for controlling a rate of radio data transmission between mobile radio equipment and a base station, the method comprising (see figure 2, base station 4, mobile 6):

a decoding step for decoding encoded data according to the encoded data input into a decoder (see figure 2, decoder 66, [0078]);

a judging step for judging the transmission rate (see [0078]) ;

a transmission controlling step for controlling the rate of transmission to/from a base station based on a judgment made at the judging step (see figure 2, [0078], it is clearly seen that the mobile 6 measure and adjust the C/I and send the indication to the base station to increase or decrease the data rate), and

an inputting/outputting step for inputting/outputting the decoded data output from the decoder in a format suitable for the input data (see figure 2, decoder 66 receive input from DEMOD 64 and output to DATA SINK 68).

It should be noticed that Padovani fails to teach a detecting step for detecting whether or not the decoding result is normal and decoding has been performed in time. However, Urzaiz teaches such features (see [0008, 0010, 0100, 0122]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Urzaiz into view of Padovani in order to maintain stability the transmission rate for the system as suggested by Urzaiz at [0013].

Regarding claims 19-22, Urzaiz further teaches the a process of requesting the base station to reduce the data transmission rate when the load data exceeds the threshold value at the comparing step, and a process of requesting the base station to increase the data transmission rate when the load data is below the threshold value (see [0009, 0161]).

Regarding claims 23-26, Urzaiz further teaches the judging step for judging whether or not decoding has been performed in time comprises judging whether or not decoding has been performed without delay (see [0010, 0100], when buffer is full and will not receive any more data so that it will delay the process).

Allowable Subject Matter

4. Claims 1-10 are allowed.
5. Claims 15-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 1-10, the reasons for allowance of claims 1-10 are set forth in according to the applicant's remarks stated on pages 13-16.

Regarding claims 15-18, the applied references fails to disclose or render obvious a comparing step for comparing the decoded data output from the decoder as load data with one or more preset threshold values, the judging step including the process of judging whether or not the load data is beyond a decoding capability of the decoder based on the comparison result obtained at the comparing step, as specified in the claims.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A. Pham whose telephone number is (571) 272-8097. The examiner can normally be reached on Monday through Friday, 8:30 AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have question on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Technology 2600
Art Unit 2618
December 11, 2007
Examiner


Tuan Pham